



House of Representatives

General Assembly

File No. 152

February Session, 2018

Substitute House Bill No. 5395

House of Representatives, April 3, 2018

The Committee on Aging reported through REP. SERRA of the 33rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING DISCLOSURE AND CREDENTIALING
REQUIREMENTS FOR PERSONS ADVISING SENIOR CITIZENS ON
LIFE CARE PLANNING.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2018*) (a) For purposes of this
2 section, (1) "senior citizen" means a person sixty-two years of age or
3 older, and (2) "senior life planning services" means (A) referrals or
4 recommendations provided to a senior citizen concerning (i) home care
5 services, (ii) a continuing-care contract, as defined in section 17b-520 of
6 the general statutes, (iii) an assisted living facility, or (iv) a nursing
7 home facility, as defined in section 19a-490 of the general statutes, or
8 (B) advice offered to a senior citizen by a financial planner, as defined
9 in section 36a-860 of the general statutes, for the specific purpose of
10 helping the senior citizen to qualify for state-administered medical
11 assistance.

12 (b) Any person providing senior life planning services shall disclose
13 to the senior citizen (1) the total fee and cost to a senior citizen for such

14 services, (2) any compensation received in connection with such
15 services, (3) whether the person providing such services is an attorney
16 in the state and is providing professional legal advice, and (4) the
17 education, experience and certifications of the person providing such
18 services. Such disclosure shall be in writing, in conspicuous type, as
19 defined in section 42-103dd of the general statutes, and shall be signed
20 by both the senior citizen and the person providing senior life
21 planning services.

22 (c) No person, in connection with senior life planning services, shall
23 use a certificate, professional designation or form of advertising
24 expressing or implying that such person has special training, education
25 or experience in senior life planning services unless such person has
26 obtained a certificate, title or designation through completion of a
27 course of study (1) resulting in the awarding of an academic degree to
28 such person that is from an accredited institution of higher education
29 and is in a field related to the senior life planning services being
30 offered to the senior citizen, provided the certificate, title or
31 designation is not used in an untrue, deceptive, misleading or false
32 manner, (2) that is in a field related to the senior life planning services
33 being offered to the senior citizen and is provided by an organization
34 accredited by the National Commission for Certifying Agencies or an
35 organization recognized as an accrediting agency by the United States
36 Department of Education pursuant to the Higher Education Act of
37 1965, 20 USC 1099b, as amended from time to time, or (3) that is
38 offered by any other organization approved by the Commissioner of
39 Consumer Protection.

40 (d) A violation of this section shall be deemed an unfair or deceptive
41 act under section 42-110b of the general statutes.

42 (e) The Commissioner of Consumer Protection may adopt
43 regulations, in accordance with the provisions of chapter 54 of the
44 general statutes, to implement the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2018</i>	New section
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Statement of Legislative Commissioners:

In Section 1(c)(1), "service" was changed to "senior life planning services"; in Section 1(c)(2), "service" was changed to "senior life planning services being offered to the senior citizen"; and in Section 1(d), "deemed" was inserted and "in violation of" was changed to "under" for consistency with provisions of the section and the general statutes.

AGE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Consumer Protection, Dept.	GF - Cost	140,566	140,566
State Comptroller - Fringe Benefits ¹	GF - Cost	45,884	45,884

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill places additional requirements on anyone providing senior life planning services and results in a cost to the state.

Section 1(c) requires the Department of Consumer Protection (DCP) to approve senior life planning services special training, education, or experience. The department does not have expertise in this area and would have to hire one full-time License and Application Specialist for a salary of \$66,213 and a fringe benefit cost of \$24,055.

Section 1(d) makes any violation of this section an unfair or deceptive act. This would require DCP to hire two part-time employees to process and mediate complaints and to investigate fraud. A consumer Information Representative with a salary of \$29,320 and fringe benefits of \$10,652 along with a Special Investigator with a salary of \$30,765 and fringe benefits of \$11,177 would be required.

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.33% of payroll in FY 19 and FY 20.

Other expenses of approximately \$14,000 are also necessary to support these positions.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5395*****AN ACT CONCERNING DISCLOSURE AND CREDENTIALING REQUIREMENTS FOR PERSONS ADVISING SENIOR CITIZENS ON LIFE CARE PLANNING.*****SUMMARY**

This bill requires anyone providing “senior life planning services” to disclose to seniors (age 62 or older) certain information about the services’ cost and the service provider’s compensation and qualifications. The disclosure must be written in conspicuous type and signed by both the senior and service provider.

The bill also prohibits anyone, in connection with a senior life planning service, from using a certificate, professional designation, or advertisement that expresses or implies that he or she has special qualifications in such services unless he or she has met specified educational requirements. In doing so, the bill extends to senior life planning service providers requirements similar to those that existing law applies to financial planners advising or serving senior citizens (CGS § 36a-860).

The bill makes a violation of these provisions an unfair or deceptive act under the Connecticut Unfair Trade Practices Act (CUTPA, see BACKGROUND).

EFFECTIVE DATE: October 1, 2018

SENIOR LIFE PLANNING SERVICES

Under the bill, “senior life planning services” are:

1. referrals or recommendations provided to seniors about home care services, continuing-care contracts, assisted living facilities, or nursing homes, or
2. advice offered to seniors by a financial planner (i.e., someone offering individualized financial planning or investment advice

to a consumer for compensation who is not otherwise regulated by state or federal law) for the specific purpose of qualifying for Medicaid or Medicare benefits.

REQUIREMENTS FOR SERVICE PROVIDERS

Disclosure

The bill requires anyone providing senior life planning services to disclose, in writing, to seniors:

1. the total fee and cost to a senior for the services;
2. any compensation received related to the services;
3. whether the service provider is a Connecticut attorney providing professional legal advice; and
4. the service provider's education, experience, and qualifications.

The bill requires the written disclosure to be in conspicuous type, that is, one that (1) uses upper and lower case letters two point sizes larger than the largest non-conspicuous type on the same page, excluding headings, but at least 10-point type or, where 10-point type is impractical or impossible, a different style of conspicuous type or print and (2) is separated on all sides from other type and print.

Special Qualifications

In connection with senior life planning services, the bill bars anyone from using a certificate, professional designation, or advertisement expressing or implying that he or she has special training, education, or experience in such services unless he or she has received a certificate, title, or designation by completing a course of study that:

1. resulted in an academic degree from an accredited higher education institution in a field related to the service being offered to the senior, as long as certificate, title, or designation is not used in an untrue, deceptive, misleading, or false manner;
2. relates to the service and is provided by an organization accredited by the National Commission for Certifying Agencies,

an organization recognized as an accrediting agency by the U.S. Department of Education; or

3. is offered by another organization approved by the Department of Consumer Protection (DCP) commissioner.

BACKGROUND

CUTPA

CUTPA (1) prohibits businesses from engaging in unfair and deceptive acts or practices and (2) allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

Continuing-Care Contract

By law, a continuing-care contract is an agreement in which the provider furnishes a person with care and shelter in a facility or care at home with the right to future access to care and shelter in a facility and medical or nursing services or other health-related benefits for the person's lifetime or for a period longer than one year. By law, the agreement governs care for a person not related to the provider and requires a present or future transfer of assets or an entrance fee in addition to or instead of periodic charges.

COMMITTEE ACTION

Aging Committee

Joint Favorable Substitute

Yea 12 Nay 0 (03/15/2018)